

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MOISES CHAVEZ,

Plaintiff,

v.

A. GOMEZ, et al.,

Defendants.

Case No. 1:20-cv-01684-SKO (PC)

**FINDINGS AND RECOMMENDATIONS  
TO DISMISS ACTION FOR FAILURE TO  
PROSECUTE**

14-DAY DEADLINE

Clerk of the Court to Assign a District Judge

On September 3, 2021, the Court issued a screening order directing Plaintiff to file a first amended complaint curing the deficiencies in his pleading. (Doc. 6.) On September 15, 2021, the U.S. Postal Service returned the screening order as undeliverable. To date, Plaintiff has not updated his address with the Court or responded to the order.

As explained in the Court's first informational order, a party appearing *pro se* must keep the Court advised of his current address. (Doc. 3 at 5.) Pursuant to Local Rules, if mail directed to a *pro se* plaintiff at his address of record is returned by the U.S. Postal Service, and the plaintiff fails to update his address within 63 days, the Court may dismiss his action for failure to prosecute. Local Rule 183(b).

In addition, Local Rules provide that "[f]ailure of counsel or of a party to comply with . . . any order of the Court may be grounds for the imposition by the Court of any and all sanctions . . . within the inherent power of the Court." Local Rule 110. "District courts have inherent power

1 to control their dockets” and, in exercising that power, may impose sanctions, including dismissal  
2 of an action. *Thompson v. Housing Auth., City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).  
3 A court may dismiss an action based on a party’s failure to prosecute an action, obey a court  
4 order, or comply with local rules. *See, e.g., Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.  
5 1992) (dismissal for failure to comply with a court order); *Malone v. U.S. Postal Service*, 833  
6 F.2d 128, 130-31 (9th Cir. 1987) (dismissal for failure to comply with a court order); *Henderson*  
7 *v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for failure to prosecute and to comply  
8 with local rules).

9 Although more than 63 days have passed since the U.S. Postal Service returned the  
10 Court’s order to show cause, Plaintiff has failed to notify the Court of his current address. Thus, it  
11 appears Plaintiff has abandoned this action. Whether he has done so intentionally or mistakenly is  
12 inconsequential. It is Plaintiff’s responsibility to comply with court orders and Local Rules. The  
13 Court declines to expend its limited resources on a case that Plaintiff has chosen to ignore.

14 Accordingly, the Court RECOMMENDS that this action be DISMISSED without  
15 prejudice for Plaintiff’s failure to prosecute. The Court DIRECTS the Clerk of the Court to assign  
16 a district judge to this action.

17 These Findings and Recommendations will be submitted to the United States District  
18 Judge assigned to this case, pursuant to 28 U.S.C. § 636(b)(1). **Within 14 days** of the date of  
19 service of these Findings and Recommendations, Plaintiff may file written objections with the  
20 Court. The document should be captioned, “Objections to Magistrate Judge’s Findings and  
21 Recommendations.” Plaintiff’s failure to file objections within the specified time may result in  
22 waiver of his rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing  
23 *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

24  
25 IT IS SO ORDERED.

26 Dated: **November 24, 2021**

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE